

REMARKS

Applicant submits this Amendment in response to a Final Office Action mailed December 10, 2003. Applicant makes this Amendment without prejudice or disclaimer. Claims 1-7, 9-12, 14-23, 25, 26, 46, and 62-69 are pending in the Application. Claims 1-7, 9-12, 14-23, 25, 26, 46, and 62-69 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Musgrove et al. in view of Franklin et al.

Reconsideration of the pending claims is respectfully requested in view of the following remarks.

Claim Rejections - 35 U.S.C. § 103

Claims 1-7, 9-12, 14-23, 25, 26, 46, and 62-69 stand rejected under 35 U.S.C. § 103(a) as obvious over Musgrove et al. (U.S. 6,535,880) in view of Franklin et al. (U.S. 6,125,352). The rejection is respectfully traversed and reconsideration is requested.

With respect to independent method claim 1 and independent system claim 46, the Examiner considers that Musgrove et al. disclose all of the claimed elements except (a) an electronic wallet server, which the Examiner considers to be taught by Franklin et al, (b) a wireless communication network, (c) that the interface-enables communications device comprises a wireless telephone, that the user identification comprises a telephone number, and (d) a joint venture between a provider of the transaction portal server and a provider of the wireless communications network, all of which the Examiner considers to be obvious to one of ordinary skill in the art.

It is noted that the filing date of Musgrove et al. is May 9, 2000 (hereinafter the effective date), and submitted herewith is Applicants' Declaration Under 37 C.F.R. 1.131 to establish invention of the subject matter of the rejected claims prior to the effective date of Musgrove et al. The Declaration establishes prior conception of the invention and due diligence to the filing date as evidenced by communications between an inventor and the patent attorney who prepared the provisional application, filed on May 18, 2000. As two of the three inventors' whereabouts are unknown, a

Petition Under 37 C.F.R. §1.47(a) to the Commissioner has been submitted, a copy of which is attached hereto. Accordingly, it is respectfully submitted that Musgrove et al. is not prior art under 35 USC 102 (a) and/or 103.

Franklin et al. on its own does not teach or suggest the method and system of operating a computer system for data management of an electronic transaction according to Applicants' claimed invention. Rather, Franklin et al. disclose nothing more than a PC running a browser with shopping basket, electronic wallet, and address book functionality capable of accessing a merchant's web server. See, e.g., Abstract.

Specifically, Franklin et al. do not teach or suggest a transaction portal server that receives the selection data from the interface-enabled communications device via the wireless communication network and which is also coupled to a merchant server that is provided with a check-out application in communication with a product database and an order fulfillment system and which merchant server also adapted for providing information describing one or more aspects of the product to the interface-enabled communications device from the product database via the wireless communication network coupled to the transaction portal server, as recited in independent claims 1 and 46. Rather, Franklin et al. disclose allowing a consumer at the consumer's PC to access a merchant's web site with the consumer's browser and gather and store information about the web merchant and the web merchant's products and to order the web merchant's products using functionality of the consumer's PC. See, e.g., col. 7, lines 25-42; col. 8, line 58-col. 9, line 14; and col. 15, lines 13-24.

Nor do Franklin et al. teach or suggest a merchant check-out application that is adapted to receive shipping detail data via the transaction portal server from an electronic wallet server that is associated with the transaction portal server and coupled to a payment processor and also to receive payment option data from the interface-enabled communications device via the wireless communication network

coupled to the transaction portal server, as recited in independent claims 1 and 46. On the contrary, Franklin et al. disclose functionality on the consumer's PC to store payment source information in the electronic wallet of the PC and shipping address information in the electronic address book of the PC and to load up the electronic wallet object if the consumer enters a selection on the consumer's PC to confirm a purchase. See, e.g., col. 25, line 65-col. 27, line 10; col. 24, line 39-col. 25, line 64; and col. 27, lines 11-40.

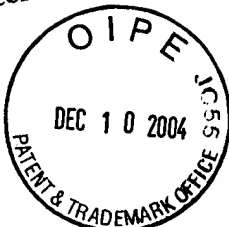
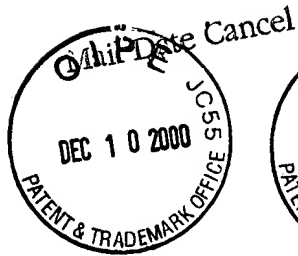
Neither do Franklin et al. teach or suggest the transaction portal server that transmits payment authorization data to the payment processor, which sends an authorization back to the transaction portal server, whereupon the transaction portal server transmits order information to the order fulfillment system of the merchant, as recited in independent claims 1 and 46. Rather, Franklin et al. disclose functionality on the consumer's PC for sending product and payment instruction information from the consumer's PC to the merchant's web server and to receive an order confirmation message transmitted to the consumer's PC browser by the merchant web server. See, e.g., col. 27, lines 28-50 and col. 28, lines 28-51.

Consequently, Franklin et al. do not recite the required combination of limitations proposing a transaction portal server that: a) receives selection data from the interface-enabled communications device via the wireless communication network; b) is coupled to a merchant server that has a check-out application in communication with a product database and an order fulfillment system, (i) which merchant server is adapted for providing information describing one or more aspects of the product to the interface-enabled communications device from the product database via the wireless communication network coupled to the transaction portal server, and (ii) which check-out application is adapted to receive shipping detail data via the transaction portal server from an electronic wallet server that is associated with the transaction portal server and coupled to a payment processor and to receive payment option data from the interface-enabled communications device via the wireless communication network coupled to the transaction portal server; and c)

transmits payment authorization data to the payment processor, which sends an authorization back to the transaction portal server, whereupon the transaction portal server transmits order information to the order fulfillment system of the merchant.

It is respectfully submitted that Musgrove et al. is not prior art under 35 USC 102 (e) and/or 103 and that Franklin et al. do not disclose, or even suggest, the required combination of limitations of independent claims 1 and 46 of Applicants' method and system of operating a computer system for data management of an electronic transaction. Since Musgrove et al. is not prior art under 35 USC 102 (e) and/or 103, and since Franklin et al. do not teach the limitations of independent claims 1 and 46, the Examiner has failed to establish the required *prima facie* case of unpatentability. See In re Royka, 490 F.2d 981, 985 (C.C.P.A., 1974) (holding that a *prima facie* case of obviousness requires the references to teach all of the limitations of the rejected claim); See also MPEP §2143.03. The Examiner has failed to establish the required *prima facie* case of unpatentability for independent claims 1 and 46 and similarly has failed to establish a *prima facie* case of unpatentability for claims 1-7, 9-12, 14-23, 25, and 26 that depend on claim 1 and claims 62-69 that depend on claim 46, and which recite further specific elements that have no reasonable correspondence with the references.

For at least these reasons, claims 1-7, 9-12, 14-23, 25, 26, 46, and 62-69 are each patentable over the cited art. Accordingly, the rejection to claims 1-7, 9-12, 14-23, 25, 26, 46, and 62-69 should be withdrawn and the claims allowed.



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CONCLUSION

Applicant respectfully submits that the pending claims are allowable.

Applicant respectfully solicits the issuance of a timely Notice of Allowance for all pending claims. The Examiner is invited to contact the undersigned to discuss any matter related to the Application.

Respectfully submitted,

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Todd W. Galinski (Reg. No. 51,713)
For John M. Harrington (Reg. 25,592) and
George T. Marcou (Reg. No. 33,014)

Kilpatrick Stockton LLP
607 14th Street NW, Suite 900
Washington, DC 20005-2018
(202) 508-5800